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Proposed Attorneys for Official Committee of Unsecured Creditors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
USA Commercial Mortgage Company
06-10725 – Lead Case
USA Capital Realty Advisors, LLC
06-10726
USA Capital Diversified Trust Deed Fund,
LLC
06-10728
USA Capital First Trust Deed Fund, LLC
06-10728
USA Securities, LLC
06-10729

Debtors.

Jointly Administered

Chapter 11 Cases

Judge Linda B. Riegler Presiding

**VERIFIED STATEMENT OF ROB
CHARLES PURSUANT TO
BANKRUPTCY RULES 2014 IN
SUPPORT OF APPLICATION BY
OFFICIAL COMMITTEE OF
UNSECURED CREDITORS TO
EMPLOY LEWIS AND ROCA LLP
AS COUNSEL FOR THE
COMMITTEE**

Date: N/A

Time: N/A

Affecting:

.. All Cases

or Only:

× USA Commercial Mortgage Company

.. USA Capital Realty Advisors, LLC

.. USA Capital Diversified Trust Deed Fund,
LLC

.. USA Capital First Trust Deed Fund, LLC

Rob Charles declares under penalty of perjury:



1 1. I am a partner in the law firm of Lewis and Roca LLP, a limited liability
2 partnership (“Lewis and Roca”), which maintains offices at, among other locations: 3993
3 Howard Hughes Parkway, Suite 600, Las Vegas, NV 89109; 40 North Central Avenue,
4 Suite 1900, Phoenix, AZ 85004-4420; and One South Church Avenue, Suite 700, Tucson,
5 AZ 85701-1611.

6 2. I am admitted to practice law in Nevada and Arizona, as well as before the
7 District Court bar in each state.

8 3. I submit this affidavit pursuant to 11 U.S.C. §§ 327 and 329, and Rule 2014,
9 Federal Rules of Bankruptcy Procedure, in support of the “Application by Official
10 Committee of Unsecured Creditors to Employ Lewis and Roca as Counsel for the
11 Committee (the “Application”), which is being filed contemporaneously herewith by the
12 Official Committee of Unsecured Creditors (the “Committee). I have personal knowledge
13 of the matters set forth herein, based upon the business records of Lewis and Roca, except
14 where noted otherwise.

15 4. The Committee has retained the services of Lewis and Roca as counsel for
16 the Committee in the above-captioned bankruptcy case. Our conversations with the
17 Committee have been ongoing for some time, but the formal engagement did not occur
18 until June 1, 2006.

19 5. Lewis and Roca has assembled a highly qualified team of professionals to
20 act as counsel for the Committee in this case. Susan Freeman and I are partners of Lewis
21 and Roca’s bankruptcy practice group, and will coordinate Lewis and Roca’s services on
22 behalf of the Committee in this case.

23 6. It is contemplated that Lewis and Roca will render the following categories
24 of legal services as counsel for the Committee:

25 a) Advice the Committee with respect to the powers and duties of the
26 Committee in this Chapter 11 case;



1 b) Consult with the Debtor concerning the administration of this case;
2 c) Advise the Committee with respect to the powers and duties of the
3 Debtor in the continued operation of its business and the management of its assets in this
4 Chapter 11 case;

5 d) Investigate the acts, conduct, assets, liabilities, and financial
6 condition of the Debtor, the operation of the Debtor's business and the desirability of the
7 continuance of such business, and any other matter relevant to the case or to the
8 formulation of a plan;

9 e) Participate in the negotiation, formulation, and drafting of a plan of
10 reorganization, including modifications and amendments, and advise the Committee
11 regarding the acceptance and confirmation process;

12 f) Advise the Committee with respect to requesting the appointment of
13 a trustee or examiner under 11 U.S.C. § 1104;

14 g) Prepare all necessary pleadings and papers pertaining to matters of
15 bankruptcy law or the case, including, without limitation, appeals and other litigation as is
16 necessary to represent the Committee;

17 h) Participate in any proceeding or hearing in the Bankruptcy Court or
18 on appeal, or any other judicial or administrative forum in which any action or
19 proceedings may be pending which may affect the Debtor, its assets, or the claims of its
20 creditors;

21 i) Advise the Committee with respect to the use, sale or lease of
22 property, financing and the rejection and assumption of executory contracts and unexpired
23 leases; and

24 j) All other legal services that may be necessary during the pendency of
25 this Chapter 11 case on behalf of the Committee.
26



1 7. To the best of my knowledge, Lewis and Roca does not represent any other
2 entity having an interest adverse to the unsecured creditors in connection with this case, as
3 required by 11 U.S.C. § 1103. With respect to Lewis and Roca's connection with the
4 Debtor's creditors, other parties in interest and their respective attorneys and accountants,
5 Lewis and Roca attorneys have made diligent efforts to search the firm's records and
6 assemble pertinent information. However, the search could not be finalized because the
7 Debtor has not yet completed its schedules and statement of affairs, and there are
8 thousands of creditors. Once the statement of affairs and schedules are filed, Lewis and
9 Roca will conduct a thorough search using its computerized conflict checks system based
10 on the information in the statement and schedules, and then update this Verified
11 Statement.

12 8. Lewis and Roca has conducted an initial conflict search based on the names
13 of all persons or entities that have appeared in these cases, Debtors, their lawyers, the
14 members of official committees and their lawyers. Lewis and Roca is in the laborious
15 process of analyzing conflicts based upon the 239 page creditor list Debtors filed at the
16 commencement of these cases.

17 9. Based upon its initial search results to date, Lewis and Roca discloses the
18 following:

19 a) Lewis and Roca was involved in discussions with the Official
20 Committee Of Holders Of Executory Contract Rights Through USA Commercial
21 Mortgage Company concerning joint representation of that committee with Jones Vargas,
22 but did not represent the committee or obtain confidential information from that committee
23 that would disqualify Lewis and Roca from representing the Committee.

24 b) Lewis and Roca was involved in preliminary discussions concerning
25 representation of USA Capital Diversified Trust Deed Fund, LLC, but did not represent
26



1 the committee or obtain confidential information from that committee that would
2 disqualify Lewis and Roca from representing the Committee.

3 c) Unsecured creditor and Committee member Robert A. Russell is a
4 present client of Lewis and Roca on matters unrelated to this bankruptcy case. Lewis and
5 Roca has advised Mr. Russell and the Committee of this matter and has agreed that Lewis
6 and Roca will not represent the Committee on any matter adverse to Mr. Russell, and will
7 not represent Mr. Russell on any matter concerning Debtors or their estates.

8 d) Wells Fargo Bank and Wells Fargo Bank Nevada, then represented by
9 Shea & Carlyon, which now represent another committee, have entered into a stipulation
10 with the Debtors concerning a bank account. Lewis and Roca represents Wells Fargo
11 Bank in matters unrelated to Debtors and will not represent the Committee on any matter
12 adverse to Wells Fargo Bank, and will not represent Wells Fargo Bank on any matter
13 concerning Debtors or their estates.

14 e) Lewis and Roca regularly represents Fidelity National Title Insurance
15 Company and its affiliates on matters unrelated to Debtors or their estates. Lewis and
16 Roca will not represent the Committee on any matter adverse to Fidelity, and will not
17 represent Fidelity on any matter concerning Debtors or their estates.

18 f) Lewis and Roca represented Fidelity National Financial, Inc. as
19 escrow agent in preparing escrow instructions for a direct loan in which USA Commercial
20 became the servicing agent, the Palm Harbor Loan. That matter was concluded after the
21 escrow instructions were prepared, and Lewis and Roca has had no ongoing representation
22 or relationship to the matter thereafter.

23 g) Lewis and Roca represented Sandvick Equipment & Supply Co. in a
24 matter adverse to USA Commercial, which was concluded in October 2005 and the firm's
25 file was closed in December 2005.

26



1 h) From time to time, Lewis and Roca may be engaged by one or more
2 of the Debtors' creditors and/or investors in matters entirely unrelated to the Debtors,
3 because of the nature of Lewis and Roca's practice. Lewis and Roca represents clients in
4 litigation, transaction, insolvency and other matters throughout the United States through
5 its offices in Arizona, Nevada and New Mexico. Any such matter will not relate directly
6 or indirectly to the representation of the Committee.

7 10. Lewis and Roca does not believe that it has previously represented any other
8 client in connection with any transaction with or litigation against the Debtor or its
9 affiliates. Lewis and Roca is not aware of any connection of the firm or its personnel with
10 the Office of the United States Trustee or any of its employees.

11 11. Lewis and Roca is unaware at this time of all the other professionals who
12 may be employed in this case. Lewis and Roca has no connections with the professionals
13 appearing to date other than as professional colleagues and as aligned and adverse
14 professionals in other cases. It will supplement its disclosure with any other connections
15 to such professionals in conjunction with its supplementation after the schedules are
16 prepared and filed.

17 12. The standard hourly compensation rate for the Lewis and Roca attorneys and
18 paraprofessionals who are expected to render services to the Committee on this case are:
19 Susan M. Freeman, Partner, \$510; Rob Charles, Partner, \$385; Scott K. Brown, Associate,
20 \$320; Marilyn Schoenike, Certified Legal Assistant, \$185. Other Lewis and Roca
21 attorneys and paralegals may render services on behalf of the Committee from time to time
22 and their standard compensation rates will be used. The hourly rates set forth above are
23 subject to periodic increases in the normal course of Lewis and Roca's business, due to,
24 among other things, the increased experience of a particular professional. Lewis and Roca
25 will charge for and seek reimbursement for its expenses, such as long distance telephone,
26



1 telecopy, photocopies, computer research, travel expenses, postage, overnight mail,
2 messengers, etc.

3 13. Lewis and Roca has agreed that it will comply with all applicable provisions
4 of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and
5 guidelines of the Office of the United States Trustee in seeking compensation in this case.
6 To date, Lewis and Roca has accepted no compensation relating to the Debtor's case.

7 14. I verify under penalty of perjury that the foregoing statement is true and
8 correct to the best of my information, knowledge and belief.

9 Dated June 1, 2006.

10 **LEWIS AND ROCA LLP**

11 By /s/ RC (#006593)

12 Rob Charles

13 *Proposed Attorneys for Official Committee of*
14 *Unsecured Creditors*